

Development & Infrastructure Services Committee Meeting

Minutes for Monday 8 September 2014

CONFIRMED



**shire of
kalamunda**

INDEX

1.0	OFFICIAL OPENING.....	3
2.0	ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED	3
3.0	PUBLIC QUESTION TIME	4
4.0	PETITIONS/DEPUTATIONS	4
5.0	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	4
6.0	ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION.....	4
7.0	MATTERS FOR WHICH MEETING MAY BE CLOSED	4
8.0	DISCLOSURE OF INTERESTS.....	4
9.0	REPORTS TO COUNCIL	5
	47. PROPOSED LOCAL PLANNING POLICY P-DEV 44 – FORRESTFIELD/HIGH WYCOMBE INDUSTRIAL AREA – DEFERRAL OF DEVELOPER CONTRIBUTIONS.....	6
	48. AMENDMENT TO LOCAL PLANNING SCHEME No. 3 – REZONE FROM PUBLIC PURPOSE - CHURCH TO RESIDENTIAL R5 – LOT 9000 (171) GLYDE ROAD, LESMURDIE.....	12
	49. PROPOSED DEVELOPER CONTRIBUTION INSTALMENT PLAN FOR AN APPROVED WAREHOUSE AND OFFICES – LOT 220 (116) SULTANA ROAD WEST, HIGH WYCOMBE.....	20
	50. CONFIDENTIAL REPORT - REMOVAL OF UNAUTHORISED FENCING – LOTS 83 (30) AND 84 (28) PROSPECT CRESCENT, KALAMUNDA	36
10.0	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	38
11.0	QUESTIONS BY MEMBERS WITHOUT NOTICE.....	38
12.0	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	38
13.0	URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION.....	38
14.0	MEETING CLOSED TO THE PUBLIC.....	38
15.0	CLOSURE	39

MINUTES

1.0 OFFICIAL OPENING

The Presiding Member opened the meeting at 6.30pm, and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Sue Bilich	(Shire President)	North Ward
Margaret Thomas JP		North Ward
Allan Morton		South West Ward
Noreen Townsend		South West Ward
Justin Whitten		South West Ward
Geoff Stallard		South East Ward
John Giardina	(Presiding Member)	South East Ward
Frank Lindsey		South East Ward
Andrew Waddell JP		North West Ward
Dylan O'Connor		North West Ward

Members of Staff

Rhonda Hardy	Chief Executive Officer
Warwick Carter	Director Development Services
Charles Sullivan	Director Infrastructure Services
Gary Ticehurst	Director Corporate Services
Darrell Forrest	Manager Governance
Andrew Fowler-Tutt	Manager Development Services
Nicole O'Neill	Public Relations Coordinator
Meri Comber	Governance Officer

Members of the Public 2

Members of the Press 0

2.2 Apologies

Councillors

Nil.

2.3 Leave of Absence Previously Approved

Simon Di Rosso	North Ward
Bob Emery	North West Ward

3.0 PUBLIC QUESTION TIME

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this Committee. For the purposes of Minuting, these questions and answers are summarised.

3.1 Nil.

4.0 PETITIONS/DEPUTATIONS

4.1 Nil.

5.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 That the Minutes of the Development & Infrastructure Services Committee Meeting held on 11 August 2014, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Andrew Waddell**

Vote: **CARRIED UNANIMOUSLY (10/0)**

6.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

6.1 Nil.

7.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

7.1 **50. – Removal of Unauthorised Fencing – Lots 83 (30) and 84 (28) Prospect Crescent, Kalamunda** and (Confidential Attachment 1) Provided under separate cover.
Reason for Confidentiality – Local Government Act 1995: Section 5.23 (2) (d) legal advice obtained, or which may be obtained by the local government and which relates to a matter to be discussed at the meeting”.

8.0 DISCLOSURE OF INTERESTS

8.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

8.1.1 An Indirect Financial Interest was declared by Cr Geoff Stallard regarding Item 48, Amendment to Local Planning Scheme No 3, Rezone from Public Purpose Church to Residential R5, Lot 9000 (171) Glyde Road, Lesmurdie, “his employer owns this property”.

8.2 **Disclosure of Interest Affecting Impartiality**

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

8.2.1 Nil.

8.3 Cr Lindsey asked for clarification as to whether he had an interest affecting impartiality regarding Item 48. He stated that he is a member of the Kalamunda Catholic Church but occasionally attends the Lesmurdie Catholic Church. The Manager Governance clarified that if Cr Lindsey had belonged to the parish of the particular item then there would be an impartiality interest, but as an occasional attendee at the church there is no interest to address. The Presiding Person remarked that he would fall into the same scenario.

9.0 **REPORTS TO COUNCIL**

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

47. Proposed Local Planning Policy P-DEV 44 – Forrestfield/High Wycombe Industrial Area – Deferral of Developer Contributions

Previous Items	OCM 47/2014, OCM 68/2014, OCM 110/2014
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	OR-CMA-16
Applicant	N/A
Owner	N/A
Attachment 1	Draft Local Planning Policy DEV 44 – Forrestfield/High Wycombe Industrial Area – Deferral of Developer Contributions

PURPOSE

1. To consider whether to adopt proposed Local Planning Policy P-DEV 44 – Forrestfield/High Wycombe Industrial Area – Deferral of Developer Contributions (the Policy). Refer to (Attachment 1).

BACKGROUND

2. Local Planning Scheme No. 3 (the Scheme) foreshadows the development of policies to guide decision-making.
3. Council has previously supported requests from developers to allow for staged payment of their developer contribution over a period of 6 to 15 months.
4. In March 2014, Council resolved (En Bloc Resolution OCM 47/2014) to request the preparation of a local planning policy that establishes guidelines around staged payments for Developer Contributions for Stage 1 of the Forrestfield/High Wycombe Industrial Area (Stage 1) for consideration by Council at a future meeting.
5. In May 2014, Council resolved (En Bloc Resolution OCM 68/2014) to endorse the Policy for the purpose of advertising.
6. In July 2014, Council resolved (Resolution OCM 110/2014) that the Scheme be amended to disallow staged payments for development within the Forrestfield/High Wycombe Industrial Area, and to ensure that all contributions are paid in full as a condition of any planning approval.

DETAILS

7. The proposed Policy is shown as Attachment 1 (Local Planning Policy P-DEV 44 – Forrestfield/High Wycombe Industrial Area – Deferral of Developer Contributions).
8. The payment of development contributions to Council is an essential component of financing the infrastructure associated with development of Stage 1 of the Forrestfield/High Wycombe Industrial Area.

9. The Policy proposes that Council will give consideration to the payment of staged contributions, having due regard to the financial position of the Developer Contribution Scheme (DCS).
10. The Policy establishes minimum agreement conditions attached to staged payments. These include a maximum of two payments over a six month period.
11. Since the Policy was endorsed by Council for the purpose of advertising, Clause 3.1 c) and the applicable condition in the Policy has been modified so that a minimum payment of 30% of the total contribution fee is to be paid upon lodgement of the building licence application.

STATUTORY AND LEGAL CONSIDERATIONS

12. The Shire may prepare a Local Planning Policy in respect to any matter related to the planning and development of the Scheme area. Policies may apply to a particular class or matter and throughout the Scheme relate to one or more parts of the Scheme area.
13. A Local Planning Policy is not part of the Scheme and does not bind the Council in its decision making, however, Council is to have due regard to the Policy when making a decision.
14. Clause 2.4.2 (Procedure for Making or Amending a Local Planning Policy) of the Scheme stipulates following the conclusion of the advertising period, Council is to:
 - “(a) review the proposed Policy in the light of any submissions made; and*
 - (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.”*
15. Clause 6.5.14.2 (Payment of Cost Contribution) of the Scheme stipulates that the owner, with the agreement of Council, may pay the owner's cost contribution in a lump sum, by instalments or in such other manner acceptable to Council.

POLICY CONSIDERATIONS

State Planning Policy No. 3.6 – Development Contributions for Infrastructure

16. State Planning Policy No. 3.6 – Development Contributions for Infrastructure (SPP 3.6) sets out the principles underlying development.
17. The model text provisions in SPP 3.6 for the incorporation of development contribution plans into local planning schemes, stipulates the following:
 - “6.3.14.2 The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by instalments or in such other manner acceptable to the local government.”*

COMMUNITY ENGAGEMENT REQUIREMENTS

18. Clause 2.4 (Procedure for Making or Amending a Local Planning Policy) of the Scheme prescribes the procedure for advertising a Local Planning Policy.

19. The Policy was advertised once a week for two consecutive weeks in a newspaper circulating the District for a submission period of 21 days. The Policy was also on display at the administration office.

20. During the formal advertising period no submissions were received.

FINANCIAL CONSIDERATIONS

21. There will be a cost involved in having a notice published in a local newspaper if the proposed Policy is adopted by Council, this is however, covered in the Development Services budget.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

22. *Kalamunda Advancing: Strategic Community Plan to 2023*

Strategy 4.1.4 Facilitate the development of industrial land within the Shire.

SUSTAINABILITY

Social Implications

23. Nil.

Economic Implications

24. The staged payment process may assist developers in meeting their financial obligations to the Developer Contribution Scheme. However, without the prompt payment of contributions, the Shire will be unable to coordinate the essential infrastructure works required to develop the industrial area in a timely manner.

Environmental Implications

25. Nil.

RISK MANAGEMENT CONSIDERATIONS

26.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Council may create uncertainty by adopting the Policy.	Unlikely	Minor	Low	Remind Council that it would be difficult for the Shire to administer the Policy in light of Council's recent decision to initiate an amendment to remove the option for staged payments.

OFFICER COMMENT

27. The Scheme currently allows the developer contribution to be paid in a lump sum or by instalments which are acceptable to Council. This however has to be

considered in the context of the Scheme meeting its obligations in respect to the delivery of scheme Infrastructure.

28. Council has previously supported three requests from developers to stage their developer contribution payment over a period of 6 to 15 months. This has meant that cash flow to the DCS has been delayed at a time when the land acquisition for the construction of roads and drainage is a priority.
29. It is acknowledged that developer contributions can represent a significant financial component of a development and is seen as a significant financial impost for some developers.
30. The intent of the Policy is to provide guidance to Council as to when staged payments may be considered acceptable having regard to the financial position of the DCS.
31. In July 2014, Council resolved (Resolution OCM 110/2014) that the Scheme be amended to disallow staged payments for development within the Forrestfield/High Wycombe Industrial Area, and to ensure that all contributions are paid in full as a condition of any planning approval.
32. The rationale for this decision was the concern that by allowing staged payments, the timely development and provision of the infrastructure required in the Forrestfield/High Wycombe Industrial Area may be delayed.
33. In light of Council's decision to remove the provision allowing for staged payments from the Scheme, there would seem little merit in progressing with the Policy.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 47/2014)

That Council:

1. Not proceed with Local Planning Policy P-DEV 44 – Forrestfield/High Wycombe Industrial Area – Deferral of Developer Contributions (Attachment 1).

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Frank Lindsey**

Vote:	<u>For</u> Cr Frank Lindsey Cr Geoff Stallard Cr Allan Morton Cr Justin Whitten Cr Andrew Waddell Cr Dylan O'Connor Cr Sue Bilich Cr Margaret Thomas Cr John Giardina CARRIED (9/1)	<u>Against</u> Cr Noreen Townsend
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Attachment 1

P - DEV 44 - Forrestfield/High Wycombe Industrial Area - Deferral of Developer Contributions

Management Procedure

Relevant Delegation

Purpose

The objective of this policy is to provide clear guidelines as to how and when Council will consider the deferral of the payment of developer contributions for developments that have planning approval to ensure Scheme infrastructure is delivered in a timely manner.

Policy Statement

1. Background

- 1.1 The payment of development contributions to Council is an essential component of financing the infrastructure associated with development across the Shire.
- 1.2 Development contributions can represent a significant financial component of a development and there may be times when it is in both in the public and in the developer's interest to defer the payment of those contributions to ensure the viability of a project.
- 1.3 Clause 6.5.14.2 (Payment of Cost Contribution) of Local Planning Scheme No. 3 stipulates that the owner, with the agreement of Council, may pay the owner's cost contribution in a lump sum, by instalments or in such other manner acceptable to Council.

2. Statement

- 2.1 Council will give consideration to the deferral of contribution requests having regard to the financial position of the Scheme.

3. Minimum Agreement Conditions

- 3.1 If Council grants such a request the minimum conditions to be included in any agreement for deferral are:
 - a) The placing of a Caveat on the property's Title.
 - b) The maximum period for deferral is to be 2 payments over a 6 month period from the issuance of a building licence. No extension to this will be considered.

- c) A minimum payment of 30% of the total contribution fee is to be paid ~~prior to the building licence being issued~~ **upon lodgement of the building licence application**. In circumstances where the building licence has already been issued, or not revalued, the first instalment payment being made within 28 days of Council's decision.

3.2 The guarantee will be terminated when the payment of cash meets the liability.

3.3 The Caveat is to be prepared by Council's solicitors at full cost to the applicant.

Related Local Law			
Related Policies	State Planning Policy No. 3.6 – Development Contributions for Infrastructure		
Related Budget Schedule			
Legislation	Local Planning Scheme No. 3		
Conditions	<p>That Council:</p> <ol style="list-style-type: none"> 1. Agrees to allow the contribution amount to be paid in instalments for the approved development at Lot (INSERT PROPERTY DETAILS), as follows, at the contribution rate applicable at the time payment is made: <ul style="list-style-type: none"> • A minimum of XX% of the required contribution amount be paid prior to the building permit being issued upon lodgement of the building licence application; and • The remaining amount owed including GST be paid within 6 months of the building permit having been issued, at the contribution rate applicable at the time payment is made. 2. Requires a caveat be placed on the property's title at the landowner's expense requiring the Development Contribution payments be made as agreed to by Council. 		
Authority			
Adopted	<table border="1" style="width: 100%;"> <tr> <td style="width: 50%;"></td> <td style="width: 50%;">Next Review Date</td> </tr> </table>		Next Review Date
	Next Review Date		

Cr Geoff Stallard declared an Indirect Financial Interest

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

48. Amendment to Local Planning Scheme No. 3 – Rezone from Public Purpose - Church to Residential R5 – Lot 9000 (171) Glyde Road, Lesmurdie

Previous Items	Nil
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	PG-LPS-003/
Applicant	Urbis
Owner	The Oblates of Mary Immaculate

Attachment 1	Existing and Proposed Scheme Zoning Map
Attachment 2	Concept Subdivision Plan
Attachment 3	Bushfire Risk Levels for the Property

PURPOSE

- To consider whether to initiate an amendment to Local Planning Scheme No. 3 (the Scheme) to rezone Lot 9000 (171) Glyde Road, Lesmurdie, from Public Purpose – Church to Residential R5. Refer to Attachment 1.

BACKGROUND

2. Land Details:

Land Area:	2.27ha
Local Planning Scheme Zone:	Public Purpose - Church
Metropolitan Regional Scheme Zone:	Urban

Locality Plan

3.



4. The property is currently vacant and contains mature vegetation throughout. The topography of the land falls towards the south west corner.
5. Surrounding properties are zoned Public Purpose – Church, Residential R5 and Private Clubs and Institutions. They contain single dwellings, an aged care complex and St. Swithun's Church.

DETAILS

6. It is proposed to rezone the property from Public Purpose – Church to Residential R5. It is intended to subdivide the property in future into 10 freehold lots. Refer to the Concept Subdivision Plan (Attachment 2).
7. A Flora and Vegetation Assessment submitted by the applicant concludes that no declared rare flora, threatened ecological community or vegetation complex of regional significance were identified on the property.
8. A Bushfire Management Plan submitted by the applicant identifies the property and two lots adjoining the eastern boundary, as mostly being at extreme risk of a bushfire. Refer to the Bushfire Risk Levels for the Property (Attachment 3).
9. In the event that the Scheme Amendment proceeds and future development occurs over the site, the resulting loss of vegetation will remove the extreme bush fire risk classification over the site.

STATUTORY AND LEGAL CONSIDERATIONS

10. The *Town Planning Regulations 1967* and *Planning and Development Act 2005* establish procedures relating to amendments to local planning schemes. If Council resolves to adopt the proposed amendment, then ultimately the amendment will be determined by the Minister for Planning.

POLICY CONSIDERATIONS

Local Planning Strategy

11. The Local Planning Strategy (LPS) recommends a population growth scenario of 25,000 within the Shire by 2031.
12. An objective of the LPS includes providing appropriate density housing and a range of housing options.

Planning for Bushfire Protection Guidelines (Western Australian Planning Commission)

13. The Planning for Bushfire Protection Guidelines (Guidelines) address a number of important fire risk management and planning matters, including:
 - the statutory planning process as it relates to fire protection;
 - bush fire hazard assessment;
 - the definition of bush fire prone areas;

- fire protection requirements for subdivision and development; and
 - strategies available to limit the vulnerability to fire or mitigate the risk of bush fire.
14. Should a site be deemed suitable for intensification of land use based on an initial bushfire hazard assessment, a more detailed bush fire hazard assessment is required at the subdivision and development stage to determine the potential level of construction standard to meet safety requirements as specified in *Australian Standard 3959 Construction of Buildings in Bushfire-Prone Areas* (AS 3959).

Draft State Planning Policy 3.7 – Planning for Bushfire Risk Management

15. The objective of Draft State Planning Policy 3.7 – Planning for Bushfire Risk Management (“Draft SPP 3.7”) is to ensure that development and land use proposals take into account bushfire protection requirements and include specified fire protection measures, especially over land that has or will have a moderate or extreme bushfire hazard level.

COMMUNITY ENGAGEMENT REQUIREMENTS

16. If the amendment was initiated by Council, the Amendment would be formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967* and *Planning and Development Act 2005*.
17. The amendment would be required to be advertised in the form of a notice being published in a district newspaper, and comments would be sought from affected landowners and applicable government agencies. A sign advertising the proposal would also be required to be erected on the subject property.

FINANCIAL CONSIDERATIONS

18. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

19. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 4.3 - To ensure the Shires development is in accord with the Shires statutory and legislative obligations and accepted urban design planning standards.

Strategy 4.3.1 Provide efficient building and development approval services to the community.

SUSTAINABILITY

Social Implications

20. Nil.

Economic Implications

21. Nil.

Environmental Implications

22. The owners will need to liaise with the Department of Environment Regulation to ascertain whether a clearing permit is necessary prior to removing any vegetation from the property. Achieving an appropriate balance between bush fire risk management measures and retention of vegetation will be considered as part of the amendment process.

RISK MANAGEMENT CONSIDERATIONS

23.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Council may resolve not to initiate the amendment.	Possible	Insignificant	Low	Ensure that Council is aware that matters relating to potential impacts the use may have on the amenity of the area, bushfire management and effluent disposal matters, will be dealt with at the development application stage if the amendment is approved.

OFFICER COMMENT

24. The proposed zoning would result in similar development to that on surrounding properties.
25. A Flora and Vegetation Assessment submitted by the applicant concludes that no declared rare flora, threatened ecological community or vegetation complex of regional significance were identified on the property.
26. The extent of the vegetation loss associated with the future development of the site under an R5 coding, will be fully determined at the subdivision/development stage of the planning process. At this stage a more detailed fire hazard assessment will be required to demonstrate how the bush fire hazard level can be reduced to an acceptable level.
27. The bushfire management plan is compliant with the Guidelines and Draft SPP 3.7.
28. Matters relating to potential impacts the use may have on the amenity of the area and effluent disposal matters will be dealt with at the development application stage if the amendment is approved.

Cr Geoff Stallard declared an Indirect Financial Interest, he left the Chambers at 6.35pm and returned at 6.36pm, he was not present for the vote.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 48/2014)

That Council:

1. Initiates the amendment to Local Planning Scheme No. 3, in accordance with the following:

<p style="text-align: center;">PLANNING AND DEVELOPMENT ACT 2005</p> <p style="text-align: center;">RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME</p> <p style="text-align: center;">SHIRE OF KALAMUNDA</p> <p style="text-align: center;">LOCAL PLANNING SCHEME NO. 3</p> <p style="text-align: center;">AMENDMENT NO.</p> <p>Resolved that the Council in pursuance of Part 5 of the <i>Planning and Development Act 2005</i> amend the above Local Planning Scheme by:</p> <ol style="list-style-type: none">1. Rezoning Lot 9000 (171) Glyde Road, Lesmurdie, from Public Purpose – Church to Residential R5 <p>Subject to amendment documents being submitted, the amendment documents being adopted by Council and the Amendment being formally advertised for 42 days in accordance with the provisions of the <i>Town Planning Regulations 1967</i>, without reference to the Western Australian Planning Commission.</p>
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2. The applicant is advised that the concept subdivision plan for the subject property does not form part of this amendment and will be considered on its merit if the amendment is approved and when subsequently a subdivision application is received.

Moved: **Cr Noreen Townsend**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1

Amendment to Local Planning Scheme No. 3 – Rezone from Public Purpose - Church to Residential R5 – Lot 9000 (171) Glyde Road, Lesmurdie Existing and Proposed Scheme Zoning Map



Existing Zoning: Public Purposes - Church



New Zoning: Residential R5

Land bounded by: Glyde Road



LEGEND

METROPOLITAN REGION SCHEME RESERVES

PARKS AND RECREATION	PRIMARY REGIONAL ROADS
RESTRICTED PUBLIC ACCESS	OTHER REGIONAL ROADS
RAILWAYS	PUBLIC PURPOSES - DENOTED AS FOLLOWS:
PORT INSTALLATIONS	HOSPITAL
STATE FORESTS	HIGH SCHOOL
WATER CATCHMENTS	TECHNICAL SCHOOL
CIVIC AND CULTURAL	CAR PARK
WATERWAYS	UNIVERSITY
	COMMONWEALTH GOVERNMENT
	STATE ENERGY COMMISSION
	SPECIAL USES
	WATER AUTHORITY OF WA
	PRISON

LOCAL SCHEME RESERVES

LOCAL OPEN SPACE
PUBLIC PURPOSES
PUBLIC PURPOSES DENOTED AS FOLLOWS:
AC AGED CARE
AG AGRICULTURE PROTECTION BOARD & CONSERVATION
AM ST. JOHN AMBULANCE
AQ AQUATIC CENTRE
BS BUS STATION
CH CHURCH
CO COUNCIL OFFICES
CP COMMUNITY PURPOSE
EL ELECTRICAL SUB STATION
EX TELEPHONE EXCHANGE
H HALL / COMMUNITY CENTRE
HOS HOSPITAL
K KINDERGARTEN
LIB LIBRARY
MUS RAILWAY MUSEUM
PB PUBLIC BUILDING
PDL POLICE STATION
PS PRIMARY SCHOOL
WA WATER TANK

ZONES

RESIDENTIAL	GENERAL INDUSTRY
RESIDENTIAL BUSHLAND	LIGHT INDUSTRY
URBAN DEVELOPMENT	RURAL AGRICULTURE
COMMERCIAL	RURAL COMPOSITE
DISTRICT CENTRE	RURAL CONSERVATION
MIXED USE	RURAL LANDSCAPE INTEREST
SERVICE STATION	SPECIAL RURAL
SPECIAL USE	INDUSTRIAL DEVELOPMENT
PRIVATE CLUBS & INSTITUTIONS	

OTHER

R CODES	SCA-KALAMUNDA TOWN CENTRE DESIGN CONTROL AREA (SEE SCHEME TEXT)
ADDITIONAL USES	SPECIAL USE AREA (SEE SCHEME TEXT)
RESTRICTED USES	ENVIRONMENTAL CONDITIONS (SEE SCHEME TEXT)
SCHEME BOUNDARY	SC3 - SCA 20ANEF
LOCAL GOVERNMENT BOUNDARY	SC4 - SCA 300M POULTRY FARM BUFFER
DEVELOPMENT AREA (SEE SCHEME TEXT)	NO ZONE

VERSION No 1

Attachment 2

Amendment to Local Planning Scheme No. 3 – Rezone from Public Purpose - Church to Residential R5 –
Lot 9000 (171) Glyde Road, Lesmurdie

Concept Subdivision Plan



Attachment 3

Amendment to Local Planning Scheme No. 3 – Rezone from Public Purpose - Church to Residential R5 –
Lot 9000 (171) Glyde Road, Lesmurdie

Bushfire Risk Levels for the Property



Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

49. Proposed Developer Contribution Instalment Plan for an Approved Warehouse and Offices – Lot 220 (116) Sultana Road West, High Wycombe

Previous Items	OCM 110/2014
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	SL-08/116
Applicant	Faramist Holdings Pty Ltd
Owner	AAA Egg Company Pty Ltd
Attachment 1	Forrestfield/High Wycombe Industrial Area Stage 1 Structure Plan
Attachment 2	Scheme Provisions for Developer Contribution Items
Attachment 3	Developer Contribution Cost Schedule

PURPOSE

- To consider a request to stage the developer contribution payments required for an approved warehouse and offices at Lot 220 (116) Sultana Road West, High Wycombe.

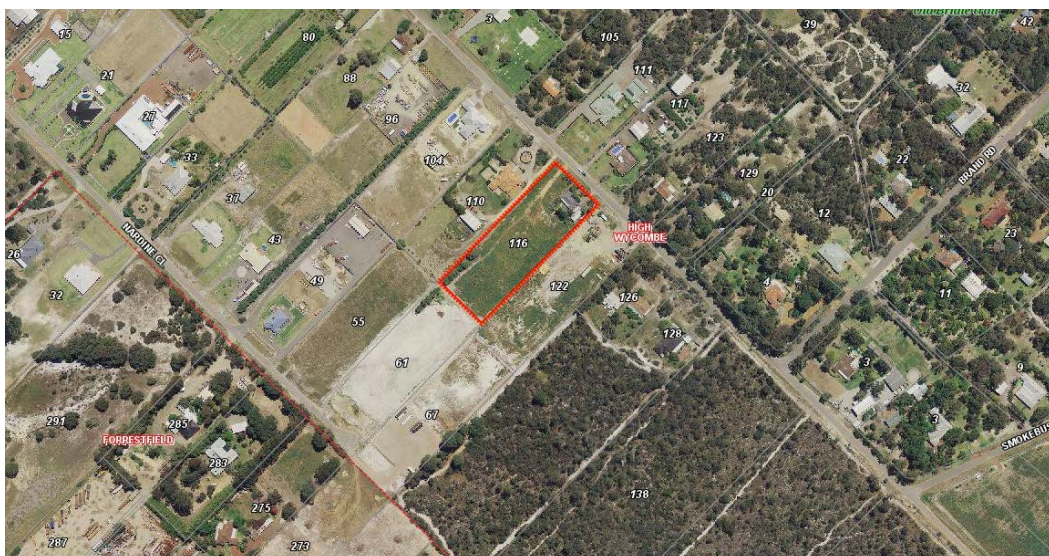
BACKGROUND

2. Land Details:

Land Area:	9,822m ²
Local Planning Scheme Zone:	Industrial Development
Metropolitan Regional Scheme Zone:	Urban

Locality Plan

3.



4. The property is located within Stage 1 of the Forrestfield/High Wycombe Industrial Area (Stage 1). The property contains a single dwelling which is proposed to be removed.
5. In May 2013, the Minister approved Amendment No. 48 to the Scheme, which amongst other provisions, proposed that Developer Contribution Items for Stage 1 be inserted under Schedule 12 (Development Areas) in the Scheme. Refer to (Attachment 2). The Developer Contribution Cost Schedule (Attachment 3), establishes the cost contribution and apportionment for each landowner.
6. The current Developer Contribution Rate is \$28.49 per sqm plus GST.
7. In March 2014, Council resolved (En Bloc Resolution OCM 47/2014) to request the preparation of a local planning policy to establish guidelines around staged payments for Developer Contributions for the Forrestfield/High Wycombe Industrial Area. The policy was endorsed in May 2014 for the purpose of public advertising.
8. In June 2014, a planning application was approved for a warehouse and offices on the property.
9. It is a condition of the planning approval that the landowner is required to make a proportional contribution to the cost of common infrastructure such as road upgrades and modifications, land acquisition for road reserves, dual use paths and administration costs of the sharing arrangements.
10. In July 2014, Council resolved (Resolution OCM 110/2014) that the Scheme be amended to disallow staged payments for development within the Forrestfield/High Wycombe Industrial Area.

DETAILS

11. The total net developer contribution for the approved light industry is currently \$279,828.78 exclusive of GST.
12. The landowner has requested that this payment be made at the following two stages:
 - A minimum of 50% paid prior to the certified building licence being issued; and
 - The remaining balance be paid 6 months later.

STATUTORY AND LEGAL CONSIDERATIONS

13. Schedule 12 (Development Contribution Areas) of the Scheme describes the DAs and sets out the purpose and particular requirements that may apply to the DA.
14. Clause 6.5.14.2 (Payment of Cost Contribution) of the Scheme stipulates that the owner, with the agreement of Council, may pay the contribution in a lump sum, by instalments or in such other manner acceptable to Council.

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15. Clause 6.5.17.1 (Shortfall or Excess in Cost Contributions) of the Scheme stipulates that if there is a shortfall in the total cost contribution owed, Council may:
- a) Make good the shortfall;
 - b) Enter into agreements with the owners to fund the shortfall; or
 - c) Raise loans or borrow from a financial institution, to fund the shortfall.

POLICY CONSIDERATIONS

State Planning Policy No. 3.6 – Development Contributions for Infrastructure

16. State Planning Policy No. 3.6 – Development Contributions for Infrastructure sets out the principles underlying development.

COMMUNITY ENGAGEMENT REQUIREMENTS

17. Nil.

FINANCIAL CONSIDERATIONS

18. The Developer Contribution Scheme for Stage 1 is cost neutral to the Shire.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

19. *Kalamunda Advancing: Strategic Community Plan to 2023*

Strategy 4.1.4	Facilitate the development of industrial land within the Shire.
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SUSTAINABILITY

Social Implications

20. Infrastructure needs to be carefully designed, costed and ultimately delivered to ensure that social impacts are minimised and that benefits are maximised.

Economic Implications

21. The staged payment process will assist the developer in meeting his financial obligations to the Scheme. However without the timely payment of contributions, the Shire will be unable to deliver the essential infrastructure works needed to make the industrial area functional.

Environmental Implications

22. Nil.

RISK MANAGEMENT CONSIDERATIONS

23.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Instalments being deferred across a long timeframe.	Possible	Major	High	Without the contribution being paid within the short term, the required upgrades and modifications to roads, the acquisition of land for road Reserves and dual use paths, amongst other items, may be delayed.

OFFICER COMMENT

24. The Scheme allows the developer contribution to be paid in a lump sum or by instalments which are acceptable to Council. This however has to be considered in the context of the Scheme meeting its obligations in respect to the delivery of Scheme Infrastructure.
25. Council has previously supported requests from developers for staged payments. This has meant that cash flow to the Developer Contribution Scheme has been delayed at a time when scheme infrastructure delivery is a priority. Council has now taken a position that it will not support the staged payment of developer contributions by requesting the provision allowing such payments be removed from the Scheme.
26. Without the contribution being paid either in full or in a timely manner the provision of required infrastructure and land acquisition, may be delayed.

A Councillor queried whether problems could be experienced given that the Shire has previously approved staged payments for developers. The Director Development Services responded that the recommendation from staff is in response to a recent Motion that was passed to amend the Town Planning Scheme to disallow these, and recent applications have been refused. It is correct that there are some that exist and should someone seek a review of the decision and go to the State Administrative Tribunal it is difficult to say what the implication would be.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (D&I 49/2014)

That Council:

1. Not support the applicant's request to stage the developer contribution payments required for the approved warehouse and offices at Lot 220 (116) Sultana Road West, High Wycombe.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Frank Lindsey**

Vote:

For

Cr Frank Lindsey
Cr Geoff Stallard
Cr Allan Morton
Cr Justin Whitten
Cr Andrew Waddell
Cr Dylan O'Connor
Cr Sue Bilich
Cr Margaret Thomas
Cr John Giardina

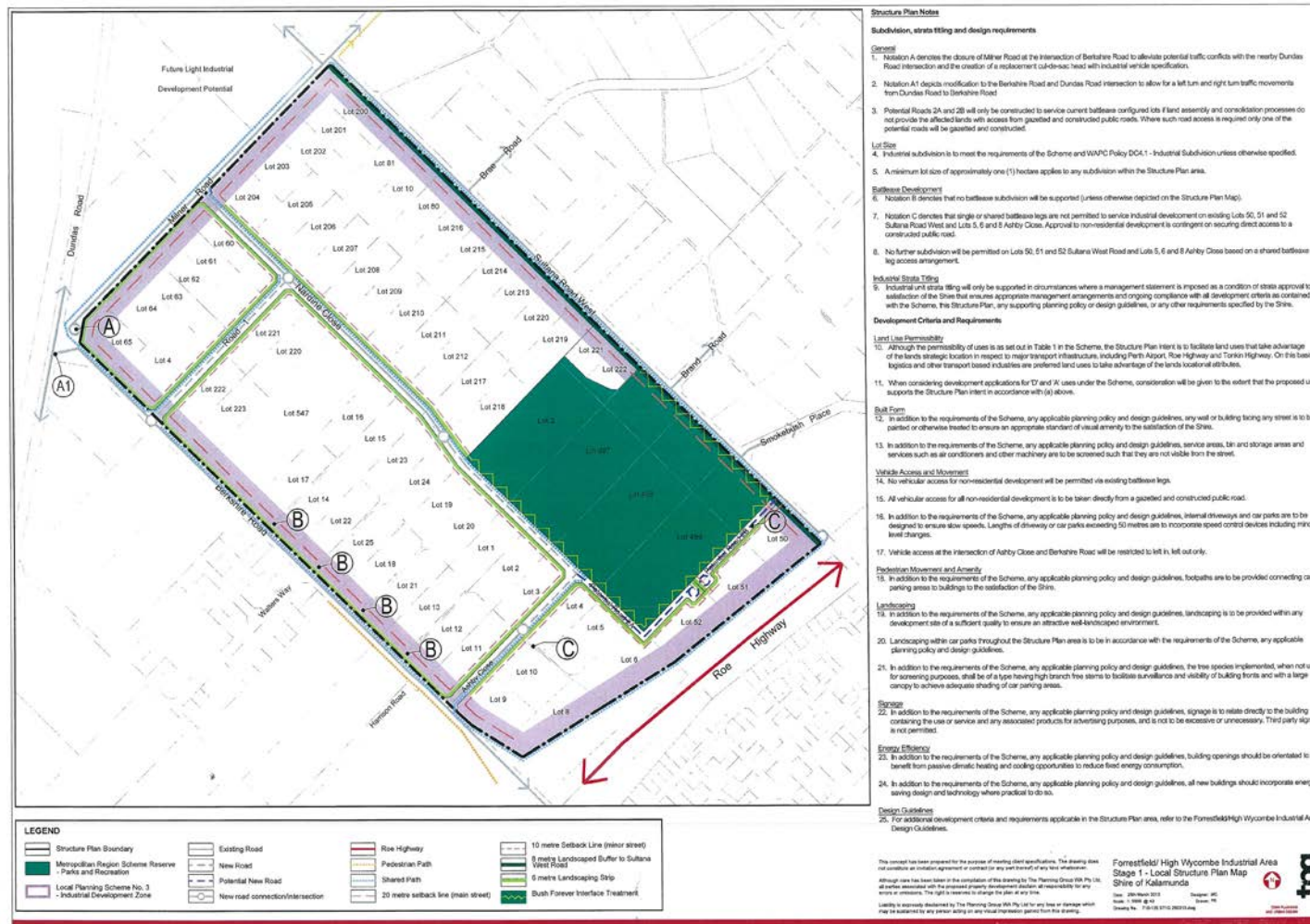
Against

Cr Noreen Townsend

CARRIED 9/1

Attachment 1

Proposed Developer Contribution Instalment Plan for an Approved Warehouse and Offices – Lot 220 (116) Sultana Road West, High Wycombe Forresterfield/High Wycombe Industrial Area Stage 1 Structure Plan



Attachment 2

Proposed Developer Contribution Instalment Plan for an Approved Warehouse and Offices –
Lot 220 (116) Sultana Road West, High Wycombe
Scheme Provisions for Developer Contribution Items

“6.5 DEVELOPMENT CONTRIBUTION AREAS (DCA)

6.5.1 Interpretation

In clause 6.5 unless the context otherwise requires –

‘Administrative Costs’ means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the Development Contribution Plan.

‘Administrative Items’ means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the Development Contribution Plan, including legal, accounting, planning, engineering, and other professional advice.

‘Cost Apportionment Schedule’ means a schedule prepared and distributed in accordance with clause 6.5.10.

‘Cost Contribution’ means the contribution to Infrastructure Costs and Administrative Costs payable by an Owner pursuant to a Development Contribution Plan.

‘Development Contribution Area’ means an area shown on the scheme map as DCA with a number and included in schedule 12.

‘Development Contribution Plan’ means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 6 of the Scheme (as incorporated in Schedule 12 to this Scheme).

‘Development Contribution Plan Report’ means a report prepared and distributed in accordance with clause 6.5.10.

‘Infrastructure’ means the standard infrastructure items (services and facilities set out in appendix 1 of State Planning Policy 3.6 ‘Development Contributions for Infrastructure’) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other infrastructure, services and facilities for which development contributions may reasonably be required having regard to the objectives, scope and provisions of State Planning Policy 3.6 ‘Development Contributions for Infrastructure’.

‘Infrastructure Costs’ means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

‘Local government’ means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.

‘Owner’ means an owner of land that is located within a Development Contribution Area.

6.5.2 Purpose

The purpose of having Development Contribution Areas is to –

- (a) provide for the equitable sharing of Infrastructure Costs and Administrative Costs between owners;*
- (b) ensure that the Cost Contributions are reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and*
- (c) coordinate the timely provision of Infrastructure.*

6.5.3 Development contribution plan required

A Development Contribution Plan is required to be prepared for each Development Contribution Area.

6.5.4 Development contribution plan part of scheme

A Development Contribution Plan is incorporated in Schedule 12 as part of this Scheme.

6.5.5 Subdivision, strata subdivision and development

The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a Development Contribution Plan is not in effect, there is no approval to advertise a Development Contribution Plan or that there is no other arrangement with respect to an owner's contribution towards the provision of community infrastructure.

6.5.6 Guiding principles for development contribution plans

The Development Contribution Plan for any Development Contribution Area is to be prepared in accordance with the following principles –

- (a) Need and the nexus*

The need for the Infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

- (b) Transparency*

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

- (c) Equity*

Development contributions should be levied from all developments within a Development Contribution Area, based on their relative contribution to need.

(d) Certainty

All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.

(e) Efficiency

Development contribution should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.

(f) Consistency

Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.

(g) Right of consultation and review

Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs forming part of the contributions is not reasonable.

(h) Accountable

There must be accountability in the manner in which development contributions are determined and expended.

6.5.7 Content of development contribution plans

The Development Contribution Plan is to specify –

- (a) The Development Contribution Area to which the Development Contribution Plan applies;*
- (b) the Infrastructure and Administrative Items to be funded through the Development Contribution Plan;*
- (c) the method of determining the Cost Contribution of each Owner; and*
- (d) the priority and timing for the provision of Infrastructure.*

6.5.8 Period of development contribution plan

A Development Contribution Plan shall specify the period during which it is to operate.

6.5.9 Land Excluded

In calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided in that Development Contribution Area for –

- (a) roads designated under the Metropolitan Region Scheme as primary regional roads and other regional roads;*
 - (b) existing open public open space;*
 - (c) existing government primary and secondary schools; and*
 - (d) such other land as is set out in the Development Contribution Plan,*
- is to be excluded.*

6.5.10 Development contribution plan report and cost apportionment schedule

- 6.5.10.1 Within 90 days of the Development Contribution Plan coming into effect, the local government is to adopt and make available a Development Contribution Plan Report and Cost Apportionment Schedule to all Owners in the Development Contribution Area.*
- 6.5.10.2 The Development Contribution Plan report and the Cost Apportionment Schedule shall set out in detail the calculation of the Cost Contribution for each owner in the Development Contribution Area, based on the methodology provided in the Development Contribution Plan, and shall take into account any proposed staging of the development.*
- 6.5.10.3 The Development Contribution Plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 6.5.11.*

6.5.11 Cost contributions based on estimates

- 6.5.11.1 The determination of Infrastructure Costs and Administrative Costs is to be based on amounts expended, but when expenditure has not occurred, is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.*
- 6.5.11.2 Where a Cost Apportionment Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government –*
- (a) in the case of land to be acquired, in accordance with clause 6.5.12; and*
 - (b) in all other cases, in accordance with the best and latest information available to the local government,*
- until the expenditure on the relevant item of Infrastructure or Administrative Costs has occurred.*
- 6.5.11.3 The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an Owner when requested.*

- 6.5.11.4 *Where any Cost Contribution has been calculated on the basis of an estimated cost, the local government -*
- (a) *is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs; and*
 - (b) *may accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the Owner accordingly.*
- 6.5.11.5 *Where an Owner's Cost Contribution is adjusted under clause 6.5.11.4, the local government, on receiving a request in writing from an Owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.*
- 6.5.11.6 *If an Owner objects to the amount of a Cost Contribution, the Owner may give notice to the local government requesting a review of the amount of the Cost Contribution by an appropriate qualified person ('independent expert') agreed by the local government and the Owner at the Owner's expense, within 28 days after being informed of the Cost Contribution.*
- 6.5.11.7 *If the independent expert does not change the Cost Contribution to a figure acceptable to the Owner, the cost contribution is to be determined:*
- (a) *by any method agreed between the local government and the Owner; or*
 - (b) *if the local government and the Owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the Commercial Arbitration Act 1985, with the costs to be shared equally between the local government and the Owner.*

6.5.12 Valuation

6.5.12.1 *Clause 6.5.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.*

6.5.12.2 *In clause 6.5.12 –*

'Value', means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arms length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this scheme as Schedule 13. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

'Valuer' means a licensed valuer agreed by the local government and the owner, or where the local government and the owner are unable to reach agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

6.5.12.3 *If an Owner objects to a valuation made by the Valuer, the Owner may give notice to the local government requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value.*

- (d) *some other method acceptable to the local government; or*
- (e) *any combination of these methods.*

6.5.14.2 *The Owner, with the agreement of the local government, may pay the Owner's Cost-Contribution in a lump sum, by instalments or in such other manner acceptable to the local government.*

6.5.14.3 *Payment by an Owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the Owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the Owner.*

6.5.15 Charge on land

6.5.15.1 *The amount of any Cost Contribution for which an Owner is liable under clause 6.5.13, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the local government may lodge a caveat, at the Owner's expense, against the certificate of title to that land.*

6.5.15.2 *The local government, at the Owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 6.5.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.*

6.5.15.3 *If the Cost Contribution is paid in full, the local government, if requested to do so by the Owner and at the expense of the Owner, is to withdraw any caveat lodged under clause 6.5.15.*

6.5.16 Administration of funds

6.5.16.1 *The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for the Infrastructure costs and Administrative costs within that Development Contribution Area will be paid.*

The purpose of such a reserve account ~~of~~ and the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.

6.5.16.2 *Interest earned on Cost Contributions credited to a reserve account in accordance with clause 6.5.16.1 is to be applied in the Development Contribution Area to which the reserve account relates*

6.5.16.3 *The local government is to publish an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.*

Attachment 3

Proposed Developer Contribution Instalment Plan for an Approved Warehouse and Offices – Lot 220 (116) Sultana Road West, High Wycombe

Developer Contribution Cost Schedule

Ref No.	DCA1
Area:	Forrestfield Light Industrial Area- Stage 1 (Area bounded by Berkshire Road, Milner Road, Sultana Road West and Roe Highway)
Relationship to other planning instruments	The development contribution plan generally conforms to the Strategic Community Plan to 2022 (Draft)
Infrastructure and Administrative items to be funded	<p>All landowners within DCA1 shall make a proportional contribution to the cost of common infrastructure.</p> <p>The proportional contribution is to be determined in accordance with the provisions clause 6.5 of the Scheme.</p> <p>Contributions shall be made towards the following items:</p> <ul style="list-style-type: none"> a) 50% to the widening and upgrading of Berkshire Road between Dundas Road and Roe Highway, including the cycling lanes; b) Any required modifications to Milner Road, including the closure procedure and installation of a cul-de-sac at the intersection point with Berkshire Road; c) Upgrading of Nardine Close and Ashby Close; d) Upgrading of the Berkshire Road and Dundas Road intersection; e) Upgrading of the Berkshire Road and Ashby Close intersection; f) 50% of any required modifications to Sultana Road West, including the cycling lane which will form part of the dual use path depicted on the applicable Forrestfield/High Wycombe Industrial Area Structure Plan; g) Acquisition of land required for the section of road linking Ashby Close to Nardine Close and the new section of road linking Nardine Close with Berkshire Road. h) Land required for the construction and drainage for all internal roads- Water Sensitive Urban Design principles to be incorporated as per the adopted Drainage Strategy; i) Full earthworks associated with road and drainage construction; j) Dual use paths as depicted on the applicable Forrestfield/High Wycombe Industrial Area Structure Plan; k) Landscaping of verges and entry statements including maintenance; l) Fencing treatment for Bush Forever site; m) Servicing infrastructure relocation where necessary; n) Costs associated with the preparation of the development area framework to meet the statutory requirements and obligations including the local water management strategy and monitoring, structure plan design and report, drainage strategy and development contribution costings. o) Costs to prepare and administer cost sharing arrangements – preliminary engineering drainage design and costings, valuations, annual or more frequent reviews and audits (where

	<p>identified as appropriate at the discretion of the local government) and administrative costs; and</p> <p>p) Costs for the repayment of any loans raised by the local government for the purchase of any land for road reserves or any of the abovementioned works.</p>
Method for Calculating Contributions	<p>All landowners within DCA1 shall make a proportional contribution to the cost of common infrastructure and administrative items based on net lot areas.</p> <p>The contributions will be in accordance with the Cost Contribution Schedule adopted by the local government for DCA1 which will be reviewed annually.</p> <p>owner's cost contribution = net lot area (m²) x contribution rate</p> <p>where</p> $\text{contribution rate} = \frac{\text{cost of infrastructure items} + \text{cost of administrative items}}{\text{total area of DCA (m}^2\text{)}}$ <p>net lot area = lot area (m²) - area of road reserve (m²)</p> <p>The contributions will be in accordance with the Cost Contribution Schedule adopted by the local government for DCA1 which will be reviewed annually.</p>
Period of Operation	10 years
Priority and timing of infrastructure	The timing of the provision of infrastructure will be developer driven and subject to market demand for land. Infrastructure is generally to be provided within the 10 year operating period for the DCP.
Review Process	<p>The plan will be reviewed when considered appropriate, though not exceeding a period of five years duration, having regard to the rate of subsequent development in the development contribution area since the last review and the degree of development potential still existing.</p> <p>The estimated infrastructure costs will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost index or other appropriate index as approved by the qualified person undertaking the certification of costs.</p>

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

50. CONFIDENTIAL REPORT - Removal of Unauthorised Fencing – Lots 83 (30) and 84 (28) Prospect Crescent, Kalamunda

Reason for confidentiality *Local Government Act S5.23(2) (d) "legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting"*

Previous Items	OCM 216/2013
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	PR-09/028, PR-09/30, LK-01/015
Applicant	N/A
Owners	R Trawnitschek – Lot 84 (28) Prospect Crescent, Kalamunda M McLean – Lot 83 (30) Prospect Crescent, Kalamunda
Confidential Attachment 1	McLeods Legal Advice <u>Reason for confidentiality</u> <i>Local Government Act S5.23(2) (d) "legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting"</i>

The full Report and (Confidential Attachment 1) had been circulated to Councillors under separate cover.

Mr Malcolm McLean addressed Councillors regarding this matter. The item was discussed under Point 15 of this Agenda.

A Councillor advised of a proposed alternative motion to the Officer's Recommendation and provided a brief explanation. The Presiding Person indicated that if the Officer's Recommendation lapsed he would then move to the alternative motion.

Councillors sought clarification on a number of issues which were responded to by staff.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL (50/2014)

That Council:

1. Does not pursue any further legal action on this matter as it is not in the public interest to do so given the substantive compliance with the removal of the fence panels.

Moved: **Cr Andrew Waddell**

Seconded: **Cr Noreen Townsend**

Vote:

For

Cr Frank Lindsey
Cr Geoff Stallard
Cr Allan Morton
Cr Noreen Townsend
Cr Justin Whitten
Cr Andrew Waddell
Cr John Giardina
CARRIED (7/3)

Against

Cr Sue Bilich
Cr Dylan O'Connor
Cr Margaret Thomas

10.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Nil.

11.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

11.1 Nil.

12.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12.1 Nil.

13.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION

13.1 The Presiding Person had been requested by Cr Noreen Townsend to have the opportunity to express her thanks to the Shire staff who acted so quickly to deal with the destruction and debris in Forrestfield that occurred following the bad storm experienced overnight. She requested that this message be passed to the staff responsible.

14.0 MEETING CLOSED TO THE PUBLIC

14.1 **Meeting Closed to the Public**

That the meeting go behind closed doors to consider Item 50.
CONFIDENTIAL REPORT - Removal of Unauthorised Fencing – Lots 83 (30) and 84 (28) Prospect Crescent, Kalamunda

Moved: **Cr Margaret Thomas**

Seconded: **Cr Sue Bilich**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting closed to the public at 6.43pm.

14.2 **Meeting Reopened to the Public**

That the meeting reopen to the public.

Moved: **Cr Allan Morton**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting reopened to the public at 7.13pm and the Presiding Person read the Resolution of the Committee to the Meeting.

- 14.3 **50. – Removal of Unauthorised Fencing – Lots 83 (30) and 84 (28) Prospect Crescent, Kalamunda** and (Confidential Attachment 1) Provided under separate cover.
Reason for Confidentiality – Local Government Act 1995: Section 5.23 (2) (d) legal advice obtained, or which may be obtained by the local government and which relates to a matter to be discussed at the meeting”

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL(50/2014)

That Council:

1. Does not pursue any further legal action on this matter as it is not in the public interest to do so given the substantive compliance with the removal of the fence panels.

Moved: **Cr Andrew Waddell**

Seconded: **Cr Noreen Townsend**

Vote:	<u>For</u> Cr Frank Lindsey Cr Geoff Stallard Cr Allan Morton Cr Noreen Townsend Cr Justin Whitten Cr Andrew Waddell Cr John Giardina	<u>Against</u> Cr Sue Bilich Cr Dylan O'Connor Cr Margaret Thomas
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CARRIED (7/3)

15.0 CLOSURE

- 15.1 There being no further business the Presiding Member declared the meeting closed at 7.14pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Presiding Member

Dated this _____ day of _____ 2014